

1 walked down to look at it. I don't
2 remember exactly what happened.

3 Q Okay. Did you make any suggestions to him
4 that, We need to clean that up tonight?

5 A I don't recall.

6 Q Did you, in your experience, feel that it
7 needed to be cleaned up before the shop was
8 closed?

9 A It honestly should have been cleaned up.

10 Q Did you have any desire yourself to clean
11 up the mess?

12 A Absolutely not.

13 Q And why not?

14 A Well, I didn't cause the mess and it was --
15 I just don't like cleaning oil.

16 Q Did Kevin Sullivan ask you to stay and
17 clean up the mess?

18 A I don't believe so.

19 Q Did you ever later learn the source of that
20 oil spill or what caused that oil spill?

21 A I honestly don't recall what caused the oil
22 spill.

23 Q Did anyone ever tell you that they knew the
24 source or the cause of that oil spill?

1 A I can't recall.

2 Q When's the next time that you had any
3 discussion or involvement with that oil
4 spill that you reported to Kevin Sullivan?

5 A The next day.

6 Q And what happened the next day?

7 A I can't remember if I was late or if I was
8 on an afternoon shift. I don't recall.
9 But I remember walking into the shop and I
10 remember somebody was hosing it down with a
11 garden hose.

12 Q Do you remember who that person was?

13 A Andy DiGaetano.

14 Q And is Mr. DiGaetano still employed at
15 Sears today?

16 A No.

17 Q Do you remember when he left employment?

18 A I don't recall.

19 Q Do you know where he works today?

20 A I have no idea.

21 Q When was the last time you had any
22 interaction with him?

23 A He came by Sears once to get his oil
24 changed, and I talked to him for about five

1 minutes.

2 Q Do you know how long ago that was?

3 A I honestly don't know. It was summer, not
4 last summer, maybe the summer before. I'm
5 not sure. It was warm weather, I should
6 say.

7 Q And upon seeing Andy DiGaetano washing the
8 oil spill down, what did you do?

9 A I stayed away from him.

10 Q Was the area that he was washing down in
11 the same location as you had seen the oil
12 spill that you reported to Kevin Sullivan?

13 A He was washing down the floors, the racks,
14 the oil racks.

15 I mean, he hosed down the
16 whole back of the shop pretty much. The
17 oil spread because of the water. It went
18 outside. It came up to the bays, some of
19 the bays.

20 Q Did you see him in the area that you had
21 seen the oil spill you reported to Kevin
22 Sullivan?

23 A He was. I forgot exactly where he was
24 standing. I think he was standing in the

1 dead bay and hosing all the oil down.

2 But as far as -- throughout
3 the time he was cleaning -- I mean, he
4 walked -- he walked back and forth through
5 the area, yes.

6 Q Did you get to see the area that you
7 reported to Kevin Sullivan that day when
8 you returned to work?

9 A Can you say that again, please.

10 Q You had earlier described the volume of the
11 spill as about 5-foot wide that was
12 underneath some of the objects stored on
13 the floor?

14 A Yes.

15 Q Did you see that area after you returned to
16 work the next day?

17 A Yes.

18 Q Can you describe what the condition of the
19 oil was there?

20 A It was all over the place. It went from
21 there everywhere.

22 Q Was it obvious to you that someone had been
23 trying to wash down that area?

24 A Yes. It was definitely from the water.

1 Q Did you assist at all in that cleanup by
2 Mr. DiGaetano?

3 A No.

4 Q Did you talk to anyone upon your return to
5 work about that cleanup?

6 A That day when he was --

7 Q -- doing the cleanup?

8 A Yes.

9 Q Who did you talk to?

10 A We'd talk -- a bunch of us were talking, as
11 far as what was going on. We had to fill
12 out statements as to what we saw. I had to
13 talk to Bill Sullivan. He called people in
14 the office, asked him what happened.

15 Q Anything else?

16 A That's as far as I can remember. I mean,
17 we talked amongst ourselves.

18 Q When you say you talked amongst yourselves,
19 was that amongst the techs that were in the
20 shop?

21 A Yes, all the Sears employees that worked in
22 the shop, some of the salesmen.

23 Q Did any of them advise you or describe how
24 that oil spill had occurred?

1 A No, not to the best of my knowledge.

2 Q Did anyone mention that Eric Souvannakane
3 had done the oil spill?

4 A No, not to the best of my knowledge.

5 Q Did you tell any of the other employees or
6 salesmen that you had seen Eric cause an
7 oil spill earlier the prior day?

8 A I don't recall.

9 Q Who's Bill Sullivan?

10 A As far as I know, he's some big corporate
11 guy that works for Sears.

12 As far as his position, I'm
13 not really sure.

14 Q Had you ever met him before the date that
15 he came on the day of the oil spill?

16 A No.

17 Q And how is it that you came to speak to him
18 on the day of the oil spill -- the day
19 after the oil spill, excuse me?

20 A We had to go in the office. The office was
21 in the back at that time. The office is
22 now in the front of the store.

23 We had to go in; they handed
24 us a sheet. You fill out a statement of

1 what you saw; you sign it and you check a
2 box and you give it to him. And I
3 remember -- I remember everyone was filling
4 out statements. I remember calling my
5 house asking if I should sign this because
6 I knew something was going to happen with
7 this if they had corporate down there and
8 written statements of what happened.

9 So I called my house. I
10 remember calling my house. I remember
11 talking to my father, asking if I should
12 sign it. He said, Just tell them what you
13 know, sign it, and give them the paper.
14 And that's exactly what I did.

15 Q Do you recall speaking to Bill Sullivan in
16 addition to filling out a written
17 statement?

18 A Yes.

19 Q And what do you remember about your
20 conversation with Bill Sullivan?

21 A Well, the first or second time I talked to
22 him?

23 Q You spoke to him on two occasions?

24 A Well, the same day -- I got called in the

1 office once, and then I got called in the
2 office again. And I'm not sure if I got
3 called in a third time. I can't remember.

4 But I know I got called in at
5 least twice.

6 Q Why don't you describe what happened the
7 first time you were called in to meet with
8 Bill Sullivan.

9 A The first time I was called in, he said --
10 he asked how I was doing. And he seemed
11 like a nice guy. He asked what happened
12 and just if I was working and if I was down
13 there the whole night.

14 Then the second time I went
15 in, he was furious. And I -- I don't
16 remember exactly what he said. But he
17 said, Do you know your job is at stake
18 here? Do you know you can get fired over
19 this? And he said something like, You're
20 going to tell me what I want to hear or
21 tell me what I want to hear or tell me what
22 I want to know or something like that.

23 And he was trying to -- the
24 second time I went in, you'd give him an

1 answer and he'd try to twist it around.

2 And I said, you know, Everything you want
3 to ask me or everything you want to know is
4 on that paper I gave you, and I walked out,
5 I walked out of the office.

6 Q So by the time you met with him the second
7 occasion, you had already submitted your
8 written statement?

9 A We had submitted our written statement
10 before the first time. I remember there
11 were a bunch of us filling out statements,
12 and we put them on the desk and walked out
13 of there. And he called us in the office
14 one by one.

15 Q How long did the first meeting that you had
16 with him last?

17 A I don't recall. It was maybe 10 minutes.

18 Q And the second meeting, how long did that
19 last?

20 A It didn't last long because I walked out of
21 there.

22 Q And did anything happen as a result of your
23 walking out?

24 A No.

1 Q Did Mr. Sullivan order you to come back in?

2 A Not that I can recall.

3 Q And you were never terminated or otherwise
4 disciplined for walking out of that
5 meeting, were you?

6 A No.

7 Q Was Eric Souvannakane's name mentioned in
8 either one of those meetings with Bill
9 Sullivan?

10 A Yes.

11 Q When's the first time Eric Souvannakane's
12 name was mentioned?

13 A I know he mentioned him the second time
14 because he said, I know Eric was here. I
15 know he's upset about being fired. And
16 that's all I can remember about Eric being
17 mentioned.

18 Q And how did you respond when you were told
19 that he knew Eric was there and upset about
20 being fired?

21 A I said, Yeah, he was here; he borrowed my
22 truck.

23 Q Did you agree that Eric was upset about
24 being fired?

1 A No.

2 Q And you didn't tell Mr. Sullivan that you
3 agreed that Eric was upset about being
4 fired?

5 A To the best of my knowledge, no.

6 Q Now, earlier I'd asked you about your
7 discussions by telephone. I think you
8 spoke to Eric right after he was fired.
9 And I think you said he was upset about
10 being fired at that time?

11 A He was upset about the reason why he got
12 fired. But this was -- this was -- I mean,
13 not long after. This was a while after, a
14 couple weeks, maybe a week or something.
15 But he was -- before -- I believe he found
16 a job before all this happened. I'm not
17 exactly sure, but ...

18 He was just upset because he
19 got -- the way he got fired. That's what
20 he was upset at. But that was before this
21 happened.

22 Q Did you tell Mr. Sullivan that Eric had
23 been involved in a minor spill earlier on
24 the prior day?

1 A I don't remember.

2 Q Did Mr. Sullivan ask you that?

3 A I don't remember.

4 MR. CLOHERTY: Why don't we
5 take five minutes.

6 (Off the record)

7 (A short break was taken.)

8 Q All right, sir, other than your meeting
9 with Bill Sullivan, did you have any -- and
10 writing out that statement you mentioned,
11 did you have any other involvement in any
12 investigation of the oil spill?

13 A No.

14 Q Did any other Sears management or
15 supervisors speak to you besides
16 Mr. Sullivan about the oil spill?

17 A No.

18 MR. CLOHERTY: Could I have
19 this marked as an exhibit.

20 (Exhibit No. 1, The statement
21 dated 10/17/03, was marked for
22 identification.)

23 Q Sir, I'm going to show you what's been
24 marked as Exhibit No. 1 to your deposition

1 and ask you to take a moment and look at
2 that and tell me if you recognize it.

3 A Yes, that's the statement I gave.

4 Q And at the top left hand, there's
5 handwritten your name, John W. Baldi, is
6 that correct?

7 A Yes.

8 Q Is the rest of the handwriting on this
9 document yours, sir?

10 A Yes.

11 Q And the date of the statement in the upper
12 right-hand corner is what, sir?

13 A October 7, (sic) 2003.

14 Q October 17th?

15 A October 17th, excuse me, 2003.

16 Q And that's the same day -- the day after
17 that you came into work after the incident,
18 correct?

19 A Yes, this is one of the statements that --
20 the statement paper they had us fill out.

21 Q Did you fill out any other written
22 statements besides this one, sir?

23 A I believe this was the only one.

24 Q And down at the bottom there's a signature

1 block. Do you see that, sir?

2 A Right here?

3 Q Yes.

4 A Yes.

5 Q Is that your signature?

6 A Yes.

7 Q And there's a date and a time next to that,
8 is that correct?

9 A Yes.

10 Q And it's dated October 17, 2003, at
11 12:45 p.m. Do you see that?

12 A Yes.

13 Q Is that consistent with your memory as to
14 when you filled this out?

15 A It was after noon sometime, yes.

16 Q Just so we can have a correct reading of
17 your handwriting, I'm going to ask if you
18 could slowly read your handwriting of the
19 incident into the record, please, sir.

20 A "The night of October 16, 2003, I did one
21 oil change at around 5. There was no spill
22 then. I noticed a small spill at about
23 8:30, and was told by another tech that he
24 informed the LCSA of a mess down back.

1 Came to work the morning of the 17th and
2 was asked if and what time I did an oil
3 change the night before. I didn't notice
4 how large the spill became until about 8:30
5 that morning when I saw a tech cleaning it
6 up."

7 I knew I came in after ---

8 Q I want to interrupt you, sir. Your
9 statement ends, "I saw a tech cleaning it
10 up," correct?

11 A Yes.

12 Q Now, is there something you wanted to add,
13 sir?

14 A I do remember, like I said before, I came
15 in. And I remember when I came in somebody
16 was cleaning it up. Well, Andy DiGaetano
17 was cleaning it up.

18 Q And you were just about to say you came in
19 after what?

20 A I knew I came in after -- I believe it was
21 after they started cleaning it up. I think
22 I came in late that day for some reason.

23 Q It indicates in your statement that you
24 told another tech; do you see that, sir?

1 Who informed the LCSA of the mess. Do you
2 see that?

3 A Yes.

4 Q Who was the other tech that you told?

5 A I was told by another tech.

6 Q I'm sorry, who was the other tech who told
7 you that an LCSA had been informed?

8 A I think it was Mike Katsaris, I think.
9 There was very few people working that
10 night. And I think it was him.

11 Q And the LCSA, leading CSA, is that what
12 that is?

13 A Possibly. That's Kevin, Kevin Sullivan.

14 Q And you mentioned earlier -- you mentioned
15 in this statement that you did not realize
16 how big the spill had become.

17 Do you see that, sir?

18 A Yes. "I did not notice how large the spill
19 became until about 8:30 that morning,"
20 meaning the next morning.

21 Q Okay.

22 A The spill was relatively small, like I
23 said, and then it was really big the next
24 day.

1 Q That's what I'm going to ask you about,
2 sir.

3 The spill the next morning
4 that you saw, was that the same location as
5 the spill that you saw the night before you
6 closed up shop?

7 A The night before -- when I saw it, it was
8 in the corner by the little shed or shack
9 with the door on it. It was over there.
10 And when I saw it the next day, it was
11 everywhere. It wasn't just there; it was
12 under the bays; it was out into the dead
13 bay; it was spread all over by the water.

14 Q Okay. Were you aware that the Saugus
15 Police were called about this incident,
16 sir?

17 A I had no idea.

18 Q Did you ever see any representative of the
19 Saugus Police come to Sears after this oil
20 spill?

21 A I saw no law enforcement whatsoever. As
22 far as police officers, I didn't see
23 anybody like that.

24 Q And I take it from that response that you,

1 yourself, were not interviewed by any
2 officers of the Saugus Police Department?

3 A Not about -- no, no.

4 Q I'm directing the question towards about
5 being interviewed about this oil spill,
6 sir.

7 A The only person that interviewed me was
8 Bill Sullivan.

9 Q Were you aware of any other Sears employees
10 who were asked to speak to the police about
11 this incident?

12 A I had no idea that other employees spoke to
13 the police.

14 Q Did any employees ever later tell you that
15 I had to speak to the police about this
16 incident?

17 A Not that I can remember.

18 Q And I think I might have asked you this
19 earlier, but you don't know who Officer
20 Gary Mansfield is of the Saugus Police
21 Department?

22 A No. I've never seen him, to the best of
23 my -- no, I have no idea.

24 Q And consistent with that, you never spoke

1 to him about this oil spill incident?

2 A I don't believe so, no. I remember talking
3 to someone who said they were with the
4 department for 15 years and now they're the
5 head of -- what do they call it -- loss
6 prevention. But I think that was on a
7 different occasion. I don't think that had
8 anything to do with this. And I don't
9 remember who it was. It was some short
10 bald guy.

11 Q And was that a representative of Sears loss
12 prevention department?

13 A I believe so. I think that was another
14 occasion, though. I don't think that had
15 anything to do with the oil.

16 Q Were you aware that Eric Souvannakane was
17 served with a criminal citation as a result
18 of this oil spill?

19 A Eventually, yes.

20 Q And how did that come to your knowledge,
21 sir?

22 A He told me.

23 Q And can you describe when he told you or
24 what circumstances?

1 A I honestly can't remember.

2 Q Do you remember whether it was in person or
3 on the telephone?

4 A I think he told me in person.

5 Q Did you speak to him at any length about
6 the criminal charges?

7 A I can't remember.

8 Q Did he tell you about the criminal charges
9 before they were resolved or was it after
10 they had already been resolved in court?

11 A I don't remember talking about any of
12 this -- or any criminal anything like that
13 when this whole thing happened with him.

14 Q Can you estimate in a time frame when Eric
15 Souvannakane first told you about a
16 criminal citation?

17 A I honestly don't know. I know when he --
18 the only thing I remember was when he was
19 looking for a lawyer, he was talking about
20 getting a court-appointed. And I said,
21 Well, maybe you should ask my father; he
22 might know.

23 And that's the only thing I
24 can remember as far as what happened with

1 him going to court or whatever.

2 Q And do you know if, in fact, Eric followed
3 up by speaking to your father?

4 A Yes, I know he called him. I don't know
5 what was said. I was never involved in the
6 conversations, but I know he called him.

7 Q Did you have any involvement in any of the
8 criminal proceedings, sir?

9 A No, no.

10 Q Were you ever served a witness subpoena to
11 testify in court?

12 A No.

13 Q Were you ever asked by Eric Souvannakane to
14 come to court on his behalf?

15 A No.

16 Q Did you, in fact, ever appear in court on
17 behalf of Eric Souvannakane?

18 A No.

19 Q Did any representatives from the district
20 attorney's office ever contact you about
21 this matter?

22 A This is the first legal incident that I've
23 been involved with, as far as the oil
24 spill. I haven't had any contact with

1 anyone else.

2 Q Okay. This deposition you're referring to?

3 A Yes, yes.

4 Q And are you aware of the outcome of the
5 criminal charges, sir?

6 A As far as what happened when Eric went to
7 court?

8 Q Yes.

9 A I know that he got off of the charges.

10 Q And how did you learn that?

11 A He told me.

12 Q And do you remember the circumstances when
13 he told you that?

14 A I don't recall.

15 Q Do you know if that was in person or by
16 telephone?

17 A It was probably in person. He was more
18 likely to show up spontaneously, just
19 randomly at my house.

20 Q I was just going to ask you: Was that at
21 your house or at the workplace?

22 A He usually showed up at the house. Every
23 so often he'd just show up at the house.

24 Q Do you recall any particular conversation

1 with him about the outcome of the criminal
2 trial?

3 A Not really. He said -- I mean, as far as I
4 can remember, he said he's -- they didn't
5 find him guilty and that was it. We really
6 didn't talk about it.

7 Q Did he tell what witnesses were called to
8 testify or anything like that?

9 A No, he didn't get in-depth with anything
10 like that.

11 Q Were you aware of any employees of Sears
12 being called to testify at the criminal
13 trial?

14 A I know Jose was involved, Jose Hernandez.

15 Q And how do you know Jose Hernandez was
16 involved?

17 A Because he told me.

18 Q And when did he tell you he was involved?

19 A I believe at work.

20 Q And what did he tell you?

21 A He mentioned something about it. He just
22 mentioned something about court. I don't
23 recall exactly his words, but I know I
24 found out at work that he was involved in

1 the whole incident.

2 Q And did Jose Hernandez ever tell you what
3 his involvement was in the incident?

4 A Jose never told me anything like that.

5 Q Did Jose ever tell you what he saw as far
6 as the oil spill went?

7 A He never told me anything about the
8 incident.

9 Q Did he ever tell you what his testimony was
10 at the criminal trial in this case?

11 A No.

12 Q Did he ever tell you about any
13 conversations he had with any Sears
14 management or supervisors about his
15 testimony?

16 A No.

17 Q Did Jose ever tell you he was required to
18 testify as part of his employment?

19 A Jose never talked about anything.

20 Q Did Eric Souvannakane ever tell you
21 anything about Jose Hernandez's testimony?

22 A He never told me anything either.

23 Q Other than Jose Hernandez, are you aware of
24 any other employees who were involved in

1 the criminal proceedings?

2 A I have no idea. The only name that I know
3 of that was involved was his. That's it.

4 Q Do you know if Eric Souvannakane spoke to
5 any other Sears employees after his
6 termination besides you?

7 A I have no idea.

8 Q Did you ever socialize with Eric together
9 with other Sears employees after his
10 termination?

11 A No.

12 Q In other words, did all the auto techs get
13 together and go out to a concert or a show
14 or do anything together after Eric was
15 fired?

16 A Not to the best of my knowledge.

17 Q Do you have any knowledge of the cost of
18 the cleanup of the oil spill that you
19 testified about had to be done by an
20 outside contractor?

21 A There was rumors around the shop that it
22 was thousands.

23 Q Did you have any personal knowledge of how
24 expensive that was, sir?

1 A To the exact dollar amount, I have no idea.

2 Q Did anyone ever tell what you the expense
3 was?

4 A Not to the best of my knowledge.

5 Q Do you have any knowledge, sir, of the
6 volume of oil that was spilled that led to
7 that cleanup?

8 A As far as how much they cleaned up --

9 Q Yeah.

10 A I have no idea how much they cleaned up.

11 Q Do you know how much was spilled?

12 A I have -- not in quarts or gallons. I have
13 no idea.

14 Q Do you have any way of estimating the
15 volume, sir?

16 A I believe before I said something like
17 5 feet wide. That's the best I can
18 remember.

19 Q I may have just asked you this and I
20 apologize if I'm repeating myself.

21 Did anyone ever tell you that
22 they had spoken to the Saugus Police
23 Department?

24 A I believe you asked me that. And no one

ever mentioned the Saugus Police, as far as
I can remember.

3 MR. CLOHERTY: That's all I
4 have for you, sir.

5 MS. TRAN: Mr. Baldi, as you
6 know, my name is Liza Tran. I represent
7 Sears in this matter. I just have a couple
8 follow-up questions, so it shouldn't take
9 too long.

CROSS-EXAMINATION

11 BY MS. TRAN

12 Q Getting back to your description of the
13 drum that you said Eric had either bumped
14 into or kicked over the night that he was
15 there on the night that you first saw the
16 oil spill, just so I'm clear, you said that
17 the 5-quart pan is usually kept inside of
18 another pan that's on top of the drum? Is
19 that accurate?

20 A It's a 5-quart -- it's like a -- almost
21 like a jug with a flexible nozzle that --
22 and a trigger, and you actually dump oil
23 into cars. It holds up to 5 quarts. And
24 usually people put it in the catch pan to

1 the waste oil drum.

2 Q Okay.

3 A Just so you know it's with -- they
4 coincide. You know, you drain it and then
5 you fill it up, usually it's kept there.
6 Sometimes it's hard to find.

7 Q And the catch pan is the part on top of the
8 waste oil drum, the 20- or 30-gallon drum
9 that we were talking about earlier?

10 A Yes, the catch pan catches the oil; it
11 transfers it down a pipe into the drum.

12 Q And, literally, if you're doing an oil
13 change, you would put this thing underneath
14 where you were going to let the oil run out
15 of it, and it would catch in the catch pan
16 and then drain to the oil drum?

17 A Yes, and it's adjustable. You would adjust
18 it up as high as you can get it up to the
19 oil pan so oil splash doesn't get on you or
20 the vehicle or the floor.

21 Q And I believe you testified earlier that
22 he -- first you said that he bumped into it
23 and then you said he kicked it. And you
24 also testified that it wasn't -- you didn't

1 think it was malicious or anything. Is
2 that accurate?

3 A He -- I can't remember if he gave it a
4 shove or he kicked it. I remember he hit
5 it, and I remember it was -- as soon as he
6 did, he was like, Oh, wait a minute, this
7 is Larry's bay and he cleaned it up. And
8 he was real quick to clean it up.

9 It was like a -- I don't know,
10 it was almost like he was kidding and then
11 he realized what he was doing and then he
12 stopped.

13 Q So it's your testimony that whatever --
14 whether he bumped into it or kicked it, it
15 was purposeful that he intended to bump it
16 or kick it?

17 A It was on the terms that he
18 was, like, kidding around, joking, and then
19 he cleaned it right up.

20 Q Who's Larry?

21 A Larry is the brake tech that sits in the
22 back of the shop.

23 Q Is there a particular reason why he would
24 have been disturbed by spilling oil in

1 Larry's area?

2 A Well, I mean, Larry gets along with
3 everyone. He's a nice guy. The last thing
4 you want to do is make a mess in a guy's
5 bay.

6 Q Do you know why he bumped into it or kicked
7 it, any particular reason besides just that
8 he was kidding around?

9 A I don't recall what led up to the whole
10 thing.

11 Q You had also testified that the day he
12 gave -- the day you lent him your father's
13 truck is the day you noticed the small oil
14 spill --

15 A Yes.

16 Q -- in the oil bay? And you had testified
17 that you thought this was a couple weeks
18 after Eric was terminated, is that
19 accurate?

20 A Back up, I missed you.

21 Q Is it correct that you testified that you
22 thought it was a couple weeks after he was
23 terminated that you lent him the truck and
24 saw the oil spill?

1 A Yes, this was after. It was at least a
2 week after he was terminated, to the best
3 of my knowledge.

4 Q So it wasn't the same day he was
5 terminated?

6 A No.

7 Q And if I provided with you documentation
8 that indicated that he was terminated on
9 the same day, would you be surprised by
10 that?

11 A Yes, I would actually.

12 Q When Eric bumped into or kicked the oil
13 drum that we were talking about earlier,
14 was anybody else present in the shop and
15 saw him do this besides you?

16 A As far as Sears employees?

17 Q Yes, as far as Sears employees.

18 A There was no one down in the back except
19 for me. Mike Katsaris was changing oil all
20 night down in the back. But he wasn't
21 there. And I remember Jose was sitting up
22 on the podium up in front. And I can't
23 recall where Mike was. But I know he
24 wasn't in the back.

1 Q Was anybody else in the shop besides those
2 Sears employees that you mentioned at the
3 time that the drum was knocked over?

4 A Eric's cousin was with him.

5 Q Who's Eric's cousin?

6 A I have no idea. I've never seen him
7 before. That was the only time.

8 Q Was he with you guys the whole time?

9 A Yeah, he was -- yeah.

10 Q You don't know his name?

11 A I have no idea.

12 Q Was anyone else present in the shop?

13 A It was just us three.

14 Q Was Eric with you the entire time that
15 evening that you are aware that he was at
16 Sears?

17 A Yes.

18 Q So he never left your sight that night?

19 A Not that I can remember.

20 Q Except for when you presumably turned
21 around when he was cleaning up the spill,
22 is that correct?

23 A Yes, yes.

24 Q You also testified earlier that Eric was --

1 you said he was upset at the way he got
2 fired.

3 What did you mean by that?

4 A He was just upset that they would take --
5 they would believe a total stranger over
6 him.

7 I mean, he was upset -- I
8 mean, when he got fired, he got upset. But
9 it's nothing that he held to heart really.
10 He was upset at the time. And that's it.

11 Q By "total stranger," you mean the customer
12 who made the complaint?

13 A Yes.

14 Q Getting back to the day after you first
15 noticed the oil spill when you were
16 interviewed by Bill Sullivan, you said you
17 were interviewed at least twice that you
18 can recall?

19 A Yes.

20 Q Is that accurate? Is that the first time
21 that you'd ever met Bill Sullivan?

22 A Yes, formally met him, yes.

23 Q Had you informally met him prior to that?

24 A I might have seen him walking around

1 before, but I don't recall.

2 I've never spoken to anyone --
3 the highest person, as far as Sears
4 employees that I've ever talked -- spoke
5 with was Barbara who works across the
6 street. And then sometimes she comes
7 around and she's got a group of people with
8 her, which I think is Sears employees.
9 They're all in suits and stuff.

10 Q "Barbara" meaning Barbara Tagliarino? Is
11 that who you're speaking of?

12 A I don't even know her last name.

13 Q The general manager over at the main store?

14 A Yes.

15 Q Was anyone else present during your
16 conversations with Bill Sullivan, either
17 one?

18 A I think Alicia was there. I remember
19 somebody sitting next to him.

20 Q Was she present for both conversations?

21 A I don't recall.

22 Q But at least one of them?

23 A I'm pretty sure, yes.

24 Q You testified earlier that in the second

1 interview you had with Bill he was furious,
2 is that accurate?

3 A Yes.

4 Q Do you know why he was furious?

5 A I have no idea. He was talking to people
6 the whole day, calling people in and out of
7 there. And I guess somebody upset him.

8 Q Did you get the sense that he was furious
9 at you specifically or just mad in general?

10 A I honestly couldn't answer you about that.
11 I mean, as far as -- I don't know. You
12 could -- he could have been mad at the
13 situation. I'm not sure if he was mad at
14 me specifically.

15 Q What made you think he was furious? What
16 was he doing to make you think he was
17 furious?

18 A His face was red; he was just yelling.

19 Q Yelling at you or just yelling?

20 A He was directing his words towards me. I
21 mean, I was the one he was asking
22 questions.

23 Q You said that in that second interview he
24 said things to you, like, You could get

1 fired, tell him what he wants to know and
2 that your job is at stake. Do you recall
3 those?

4 A Yes. And on this statement right below
5 here, it says, I have made this statement
6 on my own free will, no threats or promises
7 were made to me.

8 Q I understand that. We'll get to the
9 statement in a second.

10 I just want to talk to you
11 about what Bill was saying to you, and then
12 we'll get to that statement.

13 But do you recall him saying
14 those things to you?

15 A He said something similar to that.

16 Q Do you recall him saying anything else of
17 that nature?

18 A That's all I can remember.

19 Q So he basically told you that your job was
20 at stake and you could get fired and he
21 wanted you to tell him what he wanted to
22 know, meaning he wanted you to tell him
23 that you knew what happened, correct?

24 A Yes.

1 Q So he never told you to lie, did he?

2 A He never told me to lie per se. He, kind
3 of, hinted towards he knew Eric was down
4 there that night, and he knows Eric did it.
5 He knows Eric --

6 Q Did he say he knows Eric did it? I'm
7 sorry; I don't mean to interrupt you.

8 A He says, I know Eric got fired; I know
9 you're friends with Eric; and I know he was
10 down here.

11 I'm 100 percent sure he said
12 those three things. And after that, I'm
13 not really sure.

14 Q So you don't remember if he ever said, I
15 know Eric did it, is that correct?

16 A I don't recall.

17 Q And you don't recall him ever telling you
18 that he wanted you to tell him that Eric
19 did it or you were going to be terminated,
20 is that correct?

21 A He hinted on the fact that, like I said
22 before, he said, You know your job is at
23 stake here. You know you can get fired
24 over this.

4 Q If he had said to you, I want you to tell
5 me Eric Souvannakane caused this oil spill
6 or you're going to be terminated, would you
7 have remembered that?

8 A Probably.

9 Q But you don't remember him saying that, is
10 that correct?

ll A No, I don't remember him saying that. no.

12 Q And, in fact, you left the office without
13 ever saying that Eric Souvannakane was the
14 one that caused the oil spill, is that
15 correct?

16 A I never told Bill Sullivan that Eric caused
17 the oil spill.

18 0 You're still employed at Sears?

19 A Yes, I am.

20 Q And you were never disciplined as a result
21 of leaving that office. is that correct?

22 A No, I wasn't.

23 Q And you were never disciplined as a result
24 of not telling Bill that Eric Souvannakane

1 was involved in the oil spill?

2 A No, I wasn't.

3 Q You also testified you don't recall whether
4 or not you told Bill that Eric had been
5 involved in a smaller spill earlier that
6 night, is that accurate?

7 A I don't recall telling him about that, no.

8 Q Getting back to the statement, you read the
9 portion on the bottom?

10 A Yes.

11 Q That says you have made this statement of
12 your own freewill and no threats or
13 promises were made to you as an inducement
14 to give this statement?

15 A Yes.

16 Q I presume that was accurate at the time you
17 signed this statement?

18 A When we signed this -- this was before we
19 even got called into the office and
20 questioned. You'd sign this, hand it in
21 and then they'd start calling you.

22 Q So at the time you signed this statement,
23 no threats or promises were made to you?

24 A No.

1 Q Do you feel that there were any threats or
2 promises made to you at any time during the
3 course of the investigation?

4 A Yes.

5 Q When?

6 A When he told me my job was at stake and he
7 wanted to know who did it and my answer of,
8 I don't know wasn't -- apparently wasn't
9 good enough for him.

10 Q Do you think he was trying to get to the
11 truth of the matter?

12 A He was obviously trying to get to the
13 truth. But as far as saying your job is at
14 stake when I had nothing to do with this
15 whole thing is --

16 Q Would your job be at stake if you did know
17 something and you lied? Is that what you
18 took it to mean?

19 A I never told him any kind of lies. I told
20 him exactly what it says on this paper.

21 Q I understand that.

22 What I actually asked was: Do
23 you think your job was at stake if you knew
24 something that had happened but actually

1 lied about it?

2 A No. Honestly, that's why I got mad because
3 he was -- I know he was -- he was saying
4 this stuff to me, and I didn't even know
5 what to tell him because I already told him
6 everything I knew about the whole fact of
7 the matter, and he insisted that I knew
8 stuff that I didn't know.

9 Q And is it accurate that you then told him
10 you didn't know anything beyond what was in
11 the statement and you left the office?

12 A Yes. I said, Any other questions you have,
13 my statement is right there. I don't want
14 to say that was word for word. It was
15 something like that. And I left; I walked
16 out of there.

17 Q Do you recall meeting with me last week
18 when you told me that you didn't want Sears
19 to represent you at this deposition?

20 A Yes.

21 Q Do you recall that after you had told me
22 that, you also told me that Sears had even
23 contacted you to offer representation?

24 A Yes.

1 Q Do you recall telling me that that was
2 because you had a "beef" with somebody at
3 Sears and you were surprised that they
4 offered to represent you?

5 A Yes, I was surprised that they sent someone
6 to represent me because of this whole --
7 well, as far as this statement, I was
8 surprised after that because I didn't
9 understand how they could on one hand do
10 that, say things of that matter to me, and
11 then send somebody to represent me.

12 Q So this was the "beef" that you were
13 referring to?

14 A Yes.

15 Q So you feel as though you and Bill Sullivan
16 have a "beef"?

17 A Well, as far as -- not like a beef, but, I
18 mean, as far as him saying things to me --

19 Q Him saying things like what? Can you be
20 specific?

21 MR. CLOHERTY: And your "him"
22 is Bill Sullivan?

23 MS. TRAN: Bill Sullivan, yes.

24 A As far as Bill saying things like, Your job

1 is at stake here. I was offended by it, is
2 what I'm trying to say. And I didn't
3 appreciate that. And I didn't appreciate
4 the fact that he thinks I know what
5 happened and he was just making it out like
6 I was the bad guy. And I had nothing to do
7 with the whole thing, and I -- I just took
8 offense to it.

9 Q But at no time did Bill actually tell you
10 to lie?

11 A No.

12 Q And the whole entire time you spoke with
13 him and during your written statement you
14 told the truth?

15 A Yes.

16 Q What's your -- do you have a good
17 relationship with your coworkers generally
18 at Sears?

19 A Yeah, I'd say I do.

20 Q Is there anybody that you have any problems
21 with at Sears?

22 A Not as far as that we don't get along.
23 But, I mean -- I mean, I get along with
24 pretty much everyone there.

1 Q Managers included?

2 A Yes, managers included.

3 Q At any time during your employment with
4 Sears, have you ever had any problems with
5 any particular managers who have been
6 employed in the auto shop?

7 A Yes.

8 Q Who?

9 A Anthony Ceiri.

10 Q What problems have you had with Anthony?

11 A There was an incident when there was a dead
12 vehicle outside that we had to push in. We
13 pushed the vehicle in.

14 The owner of the vehicle came
15 from the front -- the sales floor to the
16 back of the shop, accused us of denting the
17 vehicle.

18 He had words with somebody.

19 There was a fight. The assistant manager
20 at the time was a female. She got punched
21 and knocked to the ground.

22 Q Do you remember the assistant manager's
23 name?

24 A Lucy, and I have no idea how to say her

1 last name. I remember her being upset, and
2 I was talking to her. And then Anthony
3 came and asked me to service the car that
4 we pushed in. And I said, Absolutely not.

5 And he said, You're going to
6 do it or can you go home. And I said, I'll
7 go home. I tore my shirt off; I threw it.
8 I said, I'm out of here and I left.

9 Q And when you said there was a fight, who
10 was the fight between?

11 A The owner of the vehicle started throwing
12 fists.

13 Q With whom?

14 A I believe it was Andy DiGaetano, and I know
15 that Lucy got hit in the back.

16 Q By the owner of the vehicle or by Andy?

17 A By the owner of the vehicle.

18 Q So you the two of them are -- the owner of
19 the vehicle throwing fits and Andy somehow
20 gets involved and Lucy somehow gets hit in
21 the fray basically?

22 A Correct.

23 Q And is the reason why you refused to
24 service the vehicle was because you felt

1 you shouldn't have to because the owner of
2 the vehicle caused Lucy to get hit?

3 A I mean, it's pretty much ethics. I'm not
4 going to help somebody who hit my assistant
5 manager and knocked her to the ground, and
6 while she was crying.

He asked me in front of her.

He said, You have to service this. I said,
Absolutely not.

10 Q Did anything ever happen to you as a result
11 of your refusing to service the vehicle?

12 A I left. He said, You can service this or
13 you can go home.

14 I left; I went home. As soon
15 as I got home, he called me back to work.
16 He apologized, said he was wrong. But he
17 had to have somebody service it because of
18 his boss.

19 Q What do you mean by "his boss"? Anthony's
20 boss, you mean?

21 A I think he was referring to John Reid, the
22 regional manager. I just didn't
23 understand -- I don't understand why you'd
24 want to help somebody like that.

1 Q You were never issued a warning or anything
2 like that for failure to service the
3 vehicle?

4 A Not that I know of.

5 Q Is that the only problem you've ever had
6 with Anthony?

7 A That's about the only big problem we've
8 ever had. There's never been an incident
9 where he's said, You're going to go do this
10 and I say, No, other than that. I mean --
11 he's -- all of us mess around with him.

12 Q What do you mean by "mess around"?

13 A Poke fun.

14 Q Outside of his presence or with him?

15 A With him.

16 Q Is it fair to say Anthony is mostly one of
17 the guys?

18 A Some -- it depends on his mood.

19 Q Is there any other manager at Sears that
20 you've had any problems with?

21 A No.

22 Q Are you ever aware of any Sears employees
23 making any racial slurs against Eric?

24 A He told me one of the sales associates.

1 Q Do you know what the sales associate's name
2 was?

3 A Sal Pani.

4 Q Can you spell his last name?

5 A P-a-n-i.

6 Q Is Sal still employed at Sears?

7 A I believe so.

8 Q Is that the only incident that you're aware
9 of?

10 A As far as I can remember.

11 Q And Sal is a sales associate, you said?

12 A Yes.

13 Q In the auto shop or in the main store?

14 A In the auto. Everyone that I've referred
15 to works in the auto, except for Barbara.

16 Q And Sal is not a supervisor or a manager?

17 A He's -- there have been incidents where he
18 acts as, like, almost an assistant manager,
19 kind of, what Kevin does. He'll open and
20 close sometimes.

21 Q But he, himself, doesn't have the authority
22 to hire or fire people?

23 A No.

24 Q You had also said that the day after you

1 first noticed the oil spill, the day you
2 were interviewed by Bill, that when you
3 came in, it was already being cleaned and
4 that it had spread because it was being
5 cleaned, is that accurate?

6 A It definitely spread because it was being
7 cleaned. I can't recall if I came in and
8 it was being cleaned or I came in and then
9 it started being cleaned.

10 Q I guess the question I want to ask is --
11 what I want to get at is whether or not
12 you're actually aware of whether the spill
13 you saw the next day originated from the
14 same place that you saw the spill the next
15 night before?

16 Were you able to make that
17 determination based on the way it looked
18 when you came in the next day?

19 A It definitely originated from the oil bays.
20 Q From the oil bays, but you don't know if it
21 originated from the same location, is that
22 correct?

23 A There's no other way it could have --
24 something that big could have came out

1 of --

2 Q When you said where it was, you said it was
3 over by the locker, by the storage shed,
4 right?

5 A Yes.

6 Q Is that the shed where the main oil drum
7 was kept? You said there was a big drum
8 that gets emptied by a company every so
9 often?

10 A Yes.

11 Q Is that the only thing that's kept in that
12 particular shed?

13 A I believe the new oil comes from out of
14 there, because when you pump it, you can
15 hear it.

16 Q So you think that's both where the waste
17 oil is kept and the new oil is kept?

18 A I'm pretty sure. The only other tank that
19 sits down there that says "waste" is for
20 coolant.

21 Q The morning that you came in and saw that
22 the oil spill was being cleaned, where were
23 you working during the course of that day?

24 A They had the yellow tape blocking off a lot

1 of the bays. Pretty much it was the first
2 two bays.

3 Q The first two bays were blocked off?

4 A No, the first two bays were the only ones
5 we could really work in.

6 I can't recall as far as how
7 many alignment bays were open. I remember
8 the middle bays were closed. There wasn't
9 really much work going on that day. We
10 were all, kind of, just outside talking
11 amongst either other about the whole thing,
12 really just slacking off, to be honest with
13 you.

14 Q Did you ever talk to Eric Souvannakane
15 about the lawsuit that he's filed?

16 A No, not really.

17 Q What do you mean by "not really"?

18 A We don't really talk about the legal stuff
19 he's going through.

20 Q I don't mean to belabor the point, but you
21 don't talk about it or you don't really
22 talk about it?

23 A We don't talk about it. We don't really --
24 we don't talk about it. We talk about

stuff, like, you know, kids and jobs
and ...

3 Q So Eric has never told you what the basis
4 of the lawsuit was? Is that accurate?

5 A No, he -- no, he hasn't.

6 Q Had you ever heard Eric discussing his
7 lawsuit with anybody else?

8 A No.

9 MS. TRAN: That does it for
10 me.

11 MR. OLSON: Mr. Baldi, I'm
12 Kurt Olson, and represent Eric Souvannakane
13 in this matter.

14 I'd like to clarify a couple
15 of points, if I could.

16 | CROSS-EXAMINATION

17 BY MR. OLSON

18 Q When Attorney Cloherty asked you about your
19 conversation with Eric on the day of these
20 spills, you said that you were doing one of
21 these (indicating), and you referred to
22 covering your face with your hand but only
23 part of your face?

24 A Yes.

1 Q And then when Attorney Tran asked you about
2 that, you said that you might not have had
3 Eric in your sight the whole time. But if
4 only one eye was covered, did you still
5 have him in your sight?

6 A He was in my sight. I didn't walk away
7 from him. I, kind of -- I turned around
8 and put my hand on my head, like -- almost
9 like an, Oh, no, kind of thing, kind of
10 laughed a little bit, and he was already
11 cleaning it up.

12 Q So the amount of time that would have
13 elapsed between your not seeing Eric and
14 you're seeing him again would have been --
15 could you estimate that length of time?

16 A A couple seconds.

17 Q Do you recall any conversations with other
18 Sears employees, fellow employees you may
19 have had on the day that you saw the spill?

20 A I honestly don't recall.

21 Q Okay. You also mentioned, in a question
22 from Attorney Cloherty, you estimated the
23 distance between the two spills: The one
24 that Eric had either knocked or kicked over

1 in the barrel and the larger of the two
2 spills back by the shed as maybe being two
3 bays.

4 Could you clarify that
5 distance for me in terms of feet, yards,
6 whatever is convenient?

7 A I believe I said 25, 30 feet maybe. Like I
8 said before, there was -- there was a whole
9 bunch of stuff down there at that time.
10 They drop off cleaner, Super Clean. It's
11 like a degreaser. They drop off new drums
12 of oil. The 520 oil and the synthetic oil
13 are kept in its own separate drum and you
14 pump it out. There was a whole bunch of
15 stuff down there, a trash barrel, a whole
16 bunch of stuff down there.

17 Q And how about the time that elapsed in
18 between your seeing Eric and him knocking
19 over that barrel or that 5-quart container
20 and the time that you found the spill and
21 discovered the spill out back?

22 A I discovered the spill at the end of the
23 night. It was definitely the end of the
24 night, and we all wanted to leave, and we

1 left.

2 Q Okay.

3 A He left, I don't know, maybe an hour before
4 we closed. I'm not exactly sure.

5 Q And at that time, I think you said the
6 closing hour changed. Was it 7 at that
7 time or was it 8?

8 A The closing hours -- I believe it was 8.
9 It could have been 9. They changed the
10 schedule so many times, I honestly can't
11 remember.

12 Q Okay. And one last question: You have
13 testified that the shed is where you saw or
14 near the shed is where you located the
15 larger of the two spills?

16 A Yes.

17 Q Is that near the place where the company --
18 the independent company that comes and
19 picks up the waste oil, is that where they
20 would pick this up? I think you said the
21 larger container was back there?

22 A Yes, that's the only place they could pick
23 it up. We keep all the stuff down there.

24 Q And when that independent company comes to

pick up the waste oil, does it back into
the area to pick up the waste container or
is it like one of those large dumpster-type
of things that comes forward and picks it
up?

6 MR. CLOHERTY: Objection.

7 A I think that -- I think it's a different
8 person, to be honest with you, that comes
9 every time. I saw them pick it up once.
10 It looked just like a fuel truck, and he
11 backed up to the bay, and he had a long
12 hose. That's the only time I've ever seen
13 him there, that I can remember.

14 Q So that one time that you saw this person
15 coming and picking up the oil, they would
16 insert a hose -- I'm sorry.

17 Could you describe exactly how
18 the process worked.

19 A I didn't see him suck it out. I saw him
20 with a hose just like he's filling up gas
21 into your house, the oil into your house.
22 And it was a truck that looked similar to
23 the oil truck to your house. That's as far
24 as I can remember.

1 MR. OLSON: Thank you. That's
2 all I have.

3 MR. CLOHERTY: I don't have
4 anything further for you, sir.

5 THE REPORTER: Did you want a
6 copy of the transcript.

7 MR. OLSON: Yes, mini and
8 index.

9 MS. TRAN: Yes, mini and
10 index.

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1 SIGNATURE PAGE/ERRATA SHEET

2 Re: Eric Souvannakane
VS: Sears Roebuck & Company, et al.
3 4/18/06 - Deposition of JOHN W. BALDI

4 I, JOHN W. BALDI, do hereby certify that I have read
5 the foregoing transcript of my testimony and it is a
true and correct record of my testimony (with the
exception of the corrections, if any, listed below).

6 PAGE LINE CORRECTION

7 _____
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20 _____

22 Signed under the pains and penalties of perjury
23 this ____ day of ____ 20 ____.

24

JOHN W. BALDI

1 C E R T I F I C A T E
23 COMMONWEALTH OF MASSACHUSETTS
4 COUNTY OF NORFOLK5 I, Lorreen Hollingsworth, a CSR/RPR and Notary
6 Public in and for the Commonwealth of Massachusetts,
7 do hereby certify:8 That JOHN W. BALDI, the witness whose deposition is
9 hereinbefore set forth, was duly sworn by me and that
10 such deposition is a true record of the testimony
11 given by said witness.12 I further certify that I am not related to any
13 parties to this action by blood or marriage, and that
14 I am in no way interested in the outcome of this
15 matter.16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 affixed my seal of office this 8th day of May, 2006.
18
19
20
2122 _____
23 Lorreen Hollingsworth
24 My commission expires:
July 19, 2007